

**REPORT - PLANNING COMMISSION MEETING**  
**June 24, 2004**

**Project Name and Number:** Baja Fresh (PLN2004-00283)

**Applicant:** Chuck Reed & Diego Amaya, Baja Fresh Inc.

**Proposal:** To consider an application for a Finding for a Site Plan and Architectural Approval for a remodel of an existing restaurant building in the Central Business District.

**Recommended Action:** Approve, based on finding and subject to conditions.

**Location:** 3720 Mowry Avenue

**APN:** 501-1130-020-01

**Area:** 10.05 acres

**Owner:** Faidi Living Trust

**Consultant(s):** Elizabeth Koh, Valerio Architects

**Environmental Review:** This project is exempt from the California Environmental Quality Act (CEQA) per section 15301, Existing Facilities.

**Existing General Plan:** C-B-D, Central Business District

**Existing Zoning:** CBD, Central Business District

**Existing Land Use:** Retail Commercial

**Public Hearing Notice:** Public hearing notification is applicable. A total of 371 notices were mailed to owners and occupants of property within 300 feet of the site on the following streets: Capitol Avenue, Fremont Boulevard, Fremont Hub, Mount Vernon Avenue, Mowry Avenue, Pennsylvania Avenue and State Street. The notices to owners and occupants were mailed on June 11, 2004. A Public Hearing Notice was delivered to The Argus on June 7, 2004 to be published by June 10, 2004.

**Executive Summary:** The applicant is requesting approval of a Finding for Site Plan and Architectural Approval (SPAA) for a remodel of an existing restaurant building. The existing 5,400 square foot building will be divided into two tenant spaces of approximately 2,400 square feet each with an approximately 600 square foot common area. Baja Fresh will occupy the western tenant space, closest to Mowry Avenue. The occupant of the eastern tenant space has not been determined.

**Background and Previous Actions:** On March 10, 1988, the Planning Commission approved F-87-17, Finding for Site Plan and Architectural Approval, for the construction of two retail commercial structures within the existing Fremont Plaza Shopping Center. One of the structures was located on the site of this application.

On February 23, 1989, the Planning Commission approved F-89-1, Finding for Site Plan and Architectural Approval, for a 5,400 square foot pizza restaurant. The proposal was generally consistent with the site plan previously approved by the Planning Commission as part of F-87-17 with the building located in close proximity to the northerly property line along State Street and with entrances to the building from the parking lot on the southern side. Subsequent to Planning



Commission approval and construction of the existing structure, the Pizzeria Uno restaurant chain occupied the building for approximately 12 years beginning in 1990.

On July 14, 1994, the Planning Commission approved F-94-16, Finding for Site Plan and Architectural Approval, for a 3,500 square foot freestanding building, a 1,500 square foot building addition and the general renovation of the existing Fremont Plaza shopping center. The approved project was scaled down to eliminate the 1,500 square foot addition and on May 11, 1995, the Planning Commission approved F-94-16A, an amendment to F-94-16. The exterior renovation approved as part of this application upgraded the shopping center to create a street scape which employed the use of a modern interpretation of the old downtown storefront concept.

**Project Description:** The applicant is proposing to remodel an existing 5,400 square foot restaurant building on the corner of Mowry Avenue and State Street in the Central Planning Area. There will be no expansion to the current size of the building. The existing 5,400 square foot building will be divided into two tenant spaces of approximately 2,400 square feet each with an approximately 600 square foot common area. The common area consists of restrooms, a shared entrance from the parking lot and a utility electrical room.

Baja Fresh will occupy the western tenant space closest to Mowry Avenue and the proposed hours of operation are 10:00 A.M. to 10:00 P.M., Monday through Sunday. Baja Fresh is a Mexican fast-food/casual eating establishment providing customers the ability to order at the counter with the option of eating-in or taking out. There are over 300 Baja Fresh restaurants in 28 states. This project will be the first Baja Fresh restaurant in the City of Fremont. The occupant of the eastern tenant space has not been determined.

The project proposes to remove the existing forest green crown moldings, forest green and white striped awnings and checkerboard ceramic tiles at the base. These elements will be replaced with smooth stucco gray cornice/crown and base and black awnings. There will be three new stucco towers to reflect the architectural details and design of the shopping center. The new tower elements create new storefront entries for each of the tenant spaces employing the 'new downtown storefront concept' intended by the shopping center renovation approved by F-94-16.

The project also proposes outdoor seating for both tenant spaces. Baja Fresh will convert part of the existing landscape area to create a new 738 square foot outdoor patio along the western side of the building. This paved concrete patio area will accommodate approximately 13 tables and 52 seats with five space heaters and five umbrellas. The third tower element facing the outdoor patio area responds to the intersection of Mowry Avenue and State Street and provides a good visual anchor to the corner of the site. The proposed outdoor patio area invites opportunities for pedestrian access from Mowry Avenue and enhances the adjacent 'mini' plaza area consisting of an existing concrete bench and a 100 square foot rectangular planter which the applicant proposes to plant with a wide canopy flowering tree.

The second tenant space will utilize the existing outdoor seating area for their patrons. The applicant's initial application proposed the removal of the existing planters along the perimeter of the existing outdoor seating area. Staff expressed concerns regarding the containment of paper products and litter possibly blown by the wind, and the separation of public space versus space available for patrons. The applicant has responded to staff's concern by proposing to enclose both outdoor seating areas with perimeter railings on a low wall.

As referenced above, the building was designed and approved in 1989, with the back of the building facing State Street. The property line along State Street is located adjacent to the building and the approximately 11 feet of planter area and the 10-foot sidewalk are all part of the public right-of-way. The frontage along State Street is a 'No Stopping' zone. Staff expressed concern regarding delivery and the transport of waste from the Baja Fresh tenant space to the trash enclosure located toward the eastern side of the building adjacent to the second tenant space. The encroachment into the City's right-of-way for the purpose of delivery or for transporting waste will not be permitted. The applicant has responded to staff's concern by agreeing to prohibit delivery and transport of waste through the rear entrance.

## **Project Analysis:**

**General Plan Conformance:** The existing General Plan Land Use designation for the project site is Central Business District. The proposed project is consistent with the existing General Plan Land Use designation for the project site



because eating establishments are allowed in the Central Business District requiring a discretionary approval of a Finding for Site Plan and Architectural Approval by the Planning Commission for any new construction or exterior modifications. The following General Plan Goals, Objectives and Policies are applicable to the proposed project:

**Fundamental Goal F 5:**            **A vibrant, well defined, visually distinctive Central Business District as the focus of the City's governmental, cultural and commercial activity.**

***CBD Design and Development Policies***

**Land Use Policy LU 2.7:**            **Site design and building development in the Central Business District shall be oriented toward pedestrians and transit. To maintain an active pedestrian environment, buildings oriented toward streets, sidewalks or public plazas shall be strongly encouraged at the ground level. Building orientation, setbacks, parking locations and building design shall be evaluated for how each element encourages continuity between developments.**

**Implementation 1: The proposed design and development plan shall include guidelines for improving and maintaining an active pedestrian environment in appropriate section of the CBD.**

**Analysis:** The proposed tenant spaces are designed to respond to Mowry Avenue and front on the interior pedestrian access way of the shopping center. The redesigned outdoor seating areas connect the intersection and existing 'mini' plaza to the project site and invite pedestrian activity suitable for the Central Business District. Since this site is located in the Central Business District, it is anticipated many of the patrons will walk to the restaurant from their places of business.

**Zoning Regulations:** The project site is currently zoned C-B-D, Central Business District. As stated in the Zoning Ordinance, the purpose of the Central Business District is to provide for a concentration of retail, service and office uses reflecting the needs of the entire city and the sub-region. The proposed project is consistent with such designation because eating establishment uses are allowed in the Central Business District, requiring a discretionary approval for a Finding for Site Plan and Architectural Approval by the Planning Commission for any new construction or exterior modification. The project complies with all requirements and codes applicable to a property under the zoning designation.

**Parking:** The required parking for shopping centers (50,000 square feet or larger) is one parking space for each 250 square feet of gross floor area per Fremont Municipal Code Section 8-22003(b)(4). The gross building area of the Fremont Plaza shopping center is approximately 118,400 square feet and requires 474 parking spaces  $[118,400 / 250 = 474]$ . The entire shopping center has 565 parking spaces, far exceeding the requirement.

**Open Space/Landscaping:** As part of the remodel, planters and hedges wrapping around the front of the building toward the western side along Mowry Avenue will be removed to accommodate the new outdoor patio. A new wide canopy flowering tree will be planted in the large planter adjacent to the outdoor patio. There are a number of existing planters in the City right-of-way along Mowry Avenue, between the subject building and the BIG 5 building, that are missing street trees. Street trees will be required to be planted to conform to City Standards. The parking lot in front of the subject building is also missing trees. Parking lots require one tree per every three parking spaces on all parking areas adjacent to the property perimeter. Parking areas not adjacent to the perimeter require one tree per every 10 parking spaces. These requirements will be part of the Conditions of Approval.

**Design/ Architecture/ Project Analysis:** As previously stated, the proposed development encompasses a substantial remodel of an existing restaurant building. Exterior renovations were performed on most of the buildings in the Fremont Plaza shopping center as part of F-94-16A in 1995, however, the project site was not a part of these exterior renovations. The proposed changes will reflect the architectural style implemented by the exterior renovations and bring an updated look to the building and to this end of the shopping center. The list below summarizes the proposal:

- *New crown/cornice & base:* Applied to all sides and edges of the building.



- *New tower elements:* Adds storefront entry to each tenant space and along Mowry Avenue outdoor patio.
- *Stucco detail in back:* Grooved stucco detail adds interest in the back of building.
- *New canvas awning:* Black canvas awning to replace forest green and white striped awnings.
- *Aluminum entrances and windows:* Two new entrances will be created for each tenant space.
- *New lighting:* New wall sconces will replace existing lighting fixtures.
- *New color scheme:* Chosen colors range from sandstone, corn silk, white and gray echoing the color scheme of the existing shopping center.
- *Railings:* Existing and new railings to be painted black to reflect the awnings.

As outlined above, several site and building improvements are proposed as part of this development. As part of the remodel, the windows and awnings on the back of the building along State Street will be removed. One window and one awning on the front side, and two windows and two awnings on the Mowry Avenue side will also be removed and replaced by a new tower element, a side entrance and the outdoor patio area.

**Waste Management:** This project involves retail development and it shall be subject to the provisions of the California Integrated Waste Management Act of 1989 (AB 939). The Act requires 50% of the waste generated in the City of Fremont be diverted from landfill sites by the year 2000. Additionally, the project is subject to the City's Source Reduction and Recycling Elements (1992), and Integrated Waste Management Ordinance (1995), and a Commercial/Industrial Recycling Plan (1997.) These documents require that any new project for which a building permit application is submitted to include adequate, accessible, and convenient areas for collecting and loading trash and recyclable materials.

The applicant proposes the shared use of the existing trash enclosure for both tenant spaces. The size of the existing trash enclosure is adequate for the size of the building. The applicant has agreed to address staff's concern regarding the use of the rear access and the public right-of-way on the State Street side for delivery and the transport of trash by directing employees to accept delivery and transport trash through the front of the building and to post signs on the rear access door directing employees to use the front entrance for transporting trash.

**Environmental Analysis:** The project qualifies as a categorical exemption under Section 15301 of the California Environmental Quality Act Guidelines. This exemption includes projects involving existing facilities.

**Response from Agencies and Organizations:** There were no comments made by the public during report writing.

**Enclosures:** Exhibit "A" Site Plan & Elevations  
Exhibit "B" Conditions of Approval

Informational 1: Project Description by Valerio Architects dated May 10, 2004

**Exhibits:** Exhibit "A" Site Plan & Elevations  
Exhibit "B" Conditions of Approval  
Exhibit "C" Color Exterior Elevations  
Exhibit "D" Material Sample  
Exhibit "E" Furniture Specs

#### **Recommended Actions:**

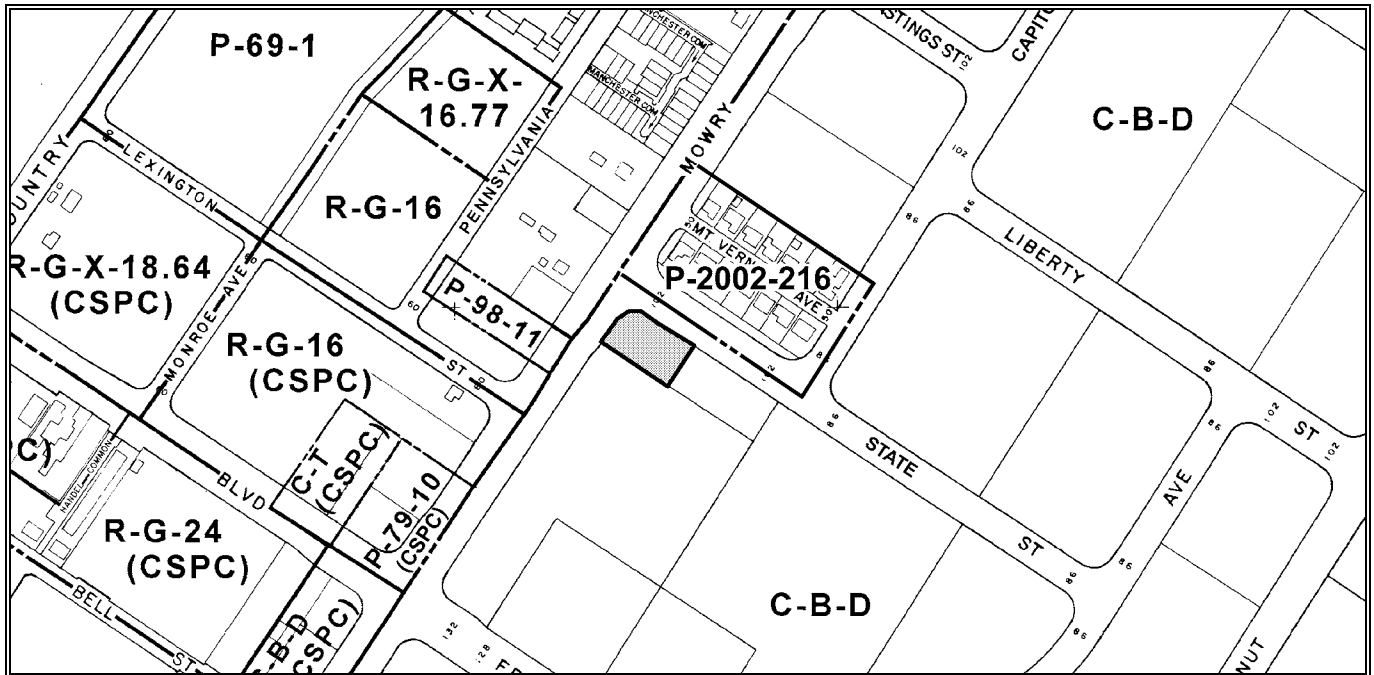
1. Hold public hearing.
2. Find PLN2004-00283, as per Exhibit "A" (Site Plan & Elevations) is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Land Use Chapter as enumerated within the staff report. The project conforms to the goals and objectives of the Central Business District.



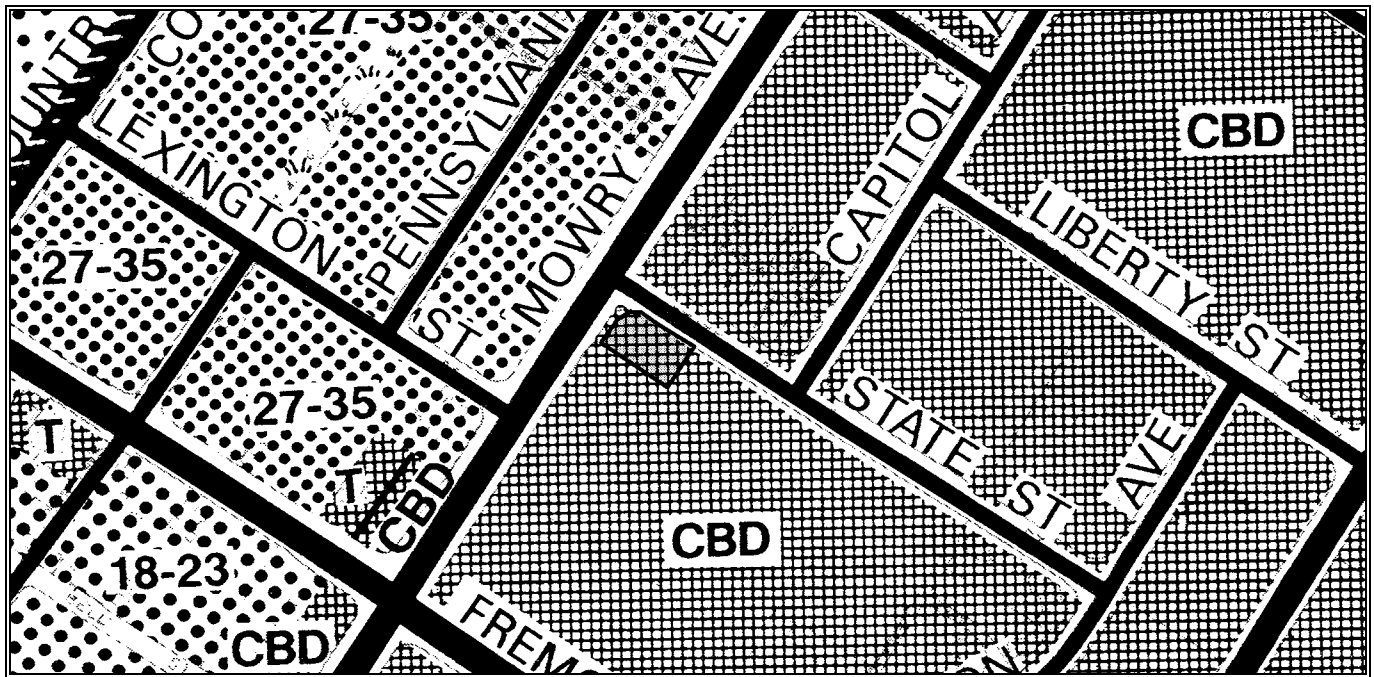
3. Find PLN2004-00283 is categorically exempt from further environmental review pursuant to CEQA Guidelines section 15301 related to alterations to existing facilities.
4. Approve PLN2004-00283, as shown on Exhibit "A" and subject to findings and conditions on Exhibit "B".



Existing Zoning  
Shaded Area represents the Project Site



Existing General Plan





**Exhibit "B"**  
**Baja Fresh – 3720 Mowry Avenue (PLN2004-00283)**

**CBD FINDINGS**

The proposed project is in conformance with the requirements of Section 8-21206(c) of the Zoning Ordinance of the Fremont Municipal Code (FMC), which requires a Planning Commission review of the site plan and architecture for all proposed buildings in the CBD. The following findings are made based on the information in the staff report and the testimony at the public hearing:

1. The proposed development properly relates to essential on-site facilities such as off-street parking, loading and unloading areas, traffic circulation and access points because the proposed project site layout conforms to the requirements of the Fremont Municipal Code. The parking lot design, ingresses and egresses and loading dock areas are not proposed to be modified and the number of parking spaces are also in conformance with required City standards.
2. The proposed development properly relates to public agency service requirements and opportunities, especially emergency public safety services in that police and fire department representatives have reviewed the plans for conformance with standards relating to public safety services.
3. The proposed development is visually, physically and functionally compatible with neighboring uses and neighborhood characteristics because the proposed use is compatible with the uses in the vicinity.
4. The proposed development includes open space or other site facilities and provides an attractive environment for the occupants of the property to be developed. The proposed site plan incorporates outdoor seating areas fronting pedestrian corridors and a small plaza with landscape features as part of the design. Staff believes the resulting environment will be attractive and useable by the occupants of the property, and it is properly designed to avoid garbage nuisances.

**CONDITIONS**

- A-1. Plans shall be submitted to the Development Organization for review to insure conformance with relevant codes, policies and other requirements of the Fremont Municipal Code.
- A-2. Minor modifications to the building designs and elevations may be made subject to review and approval of the Assistant City Manager, if such modifications do not deviate from the architectural character of the original approval.
- A-3. All uses shall conform to those permitted under the Zoning Ordinance for the C-B-D zoning district.
- A-4. No deliveries, pick-ups or transport of trash/recyclables shall be allowed into the City's rights-of-way along the northerly property line. Baja Fresh to provide a sign for the rear access door "all trash to be taken through the front entrance."
- A-5. All lighting for the building shall be recessed and out of view from any public right-of-way.
- A-6. All roof mounted and other mechanical equipment shall be screened from view from adjacent public right-of-way and other uses. No equipment shall project outside the face of the building, unless screened.
- A-7. All restaurant facilities shall be equipped with the most current technology filtering devices to minimize odors and fumes emanating from such uses.



- A-8. Plans, specifications, equipment lists and calculations for the required sprinkler system must be submitted to the Fremont Fire Department Authority and Building Department for review and approval prior to installation. Standard Required: N.F.P.A. 13
- A-9. All Automatic Fire Suppression Systems Fire Department Connections shall have the following installed/provided
- a) Address and names of business it serves shall be placed on a placard and installed at the connection.
  - b) Knox Cap installed on every inlet.
- A-10. Prior to occupancy the A.F.E.S shall have a current California Title 19, 5-year certification tag on the fire sprinkler riser.
- A-11. The applicant shall install Fire alarm system as required. The system must be monitored. The system must be N.F.P.A. 72 compliant and have an interior audible device per the C.F.C. Upon completion a "UL" serial numbered certificate shall be provided at no cost to the City of Fremont, Fire and Life Safety Inspector. Fire alarm systems devices shall be addressable and report to the Central Monitoring Station addressable.
- A-12. Addresses must always be visible from a Public Street.
- A-13. Fire Department connections for all sprinkler system must be located not more than 100 feet from a fire hydrant. N.F.P.A 14. All inlets shall have Knox type caps installed.
- A-14. Any proposed signage is not part of this review and shall require a separate permit. Refer to the Fremont Plaza Planned Sign Program.
- A-15. The proposed landscaping and hardscape improvements will be subject to staff review and approval during the Development Organization process.
- A-16. All provisions of the City of Fremont Landscape Development Requirements and Policies (LDRP) shall apply to this project unless otherwise approved by the City Landscape Architect. Current copy of the LDRP are available at the Engineering Counter.
- A-17. Landscape plan shall be submitted to the Development Organization, for review and approval, indicating full details regarding (1) paving materials and textures of walkways and paved pedestrian areas, (2) lighting of walkways and pedestrian areas with low intensity non-glare type fixtures, (3) screening of driveways and parking areas, and (4) landscaping of site and open areas. As part of the landscape plans the applicant shall submit:
- a) An underground irrigation plan.
  - b) Weed control specifications.
  - c) A lighting plan for the illumination of the building, pedestrian and parking areas. Type of lighting fixtures, their heights, intensity and direction shall be clearly indicated.
  - d) Construction details of raised planters, walkways, paths, benches, walls, fences, trellised, and other architectural features as appropriate to the project.
- A-18. Per Fremont Municipal Code (FMC) Section 8-22706, Street Trees are required. There are a number of existing planters in the City Right of Way along Mowry Avenue and State Street that are missing Street Trees. Provide six street trees along Mowry Avenue and one along State Street in the existing planters. The street trees shall be 24" Box size Sunset Maple planted to conform to City Standard Tree Planting Detail SD-34.
- A-19. FMC 8-22009, parking lots require one (1) tree per every three (3) parking spaces on all parking areas adjacent to the property perimeter. Provide seven 15 gallon size large canopy trees in planters



adjacent parking area along Mowry Avenue subject to staff approval during the Development Organization review.

- A-20. Per FMC 8-22009, parking areas within fifty (50) feet of a public street will be screened by a three-foot masonry wall, a three-foot tall berm or a continuous shrub planting. Provide shrub planting (minimum size 5 gallon) and one gallon size groundcovers in existing planters adjacent parking areas along Mowry Avenue.
- A-21. Provide a low wall surrounding the outdoor seating area on Mowry Avenue. The details of the wall shall be subject to staff review during Development Organization review period.
- A-22. A 24" Box specimen tree Jacaranda mimosifolia or Albizia julibrissin shall be installed in existing rectangular planter box adjacent the outdoor seating area. All planting areas containing trees shall be free of all utility structures (including light standards). Clearances between utilities and trees shall conform to SD-34 City Standard Street Tree Clearances
- A-23. Applicant must complete and file a Project Waste Handling Plan with Environmental Services Department prior to beginning any demolition or construction.
- A-24. Within 5 days of completing construction, applicant must complete and file a Post-Project Waste Handling Report for all demolition and construction debris.
- A-25. Applicant must comply with the City of Fremont Waste Handling & Recycling Requirements.